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December 6, 2022

BY ECF

Honorable Ona T. Wang
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED.

Re: Gabino Genao v. City of New York, et al., 20-CV-10573 (VSB) (OTW)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and attorney for defendants City of New York, Captains Dillard, Alleyne, Duncan Chandler, Assistant Deputy Warden Harris, Officers Masone, Everson, Collymore, and Mr. Morelli in the above-referenced matter. Defendants write to respectfully request to adjourn the conference scheduled for December 13, 2022 at 2:00 P.M to an alternative date and time proposed by the facility. See Docket Entry No. 134. Defendants were unable to obtain plaintiff's position on this request due to his incarcerated status. This is the second¹ request for an adjournment of this conference.

By way of background, *pro se* plaintiff alleges, *inter alia*, that on or about October 22, 2020, defendant officers were deliberately indifferent to the conditions of his cell, and that they failed to protect him by placing him in a cell next to a rival gang member. See Docket Entry No. 2.

On October 31, 2022, the Court scheduled a telephonic status conference to take place on December 13, 2022 at 2:00 p.m, to discuss the production of grievances after the close of discovery, and summary judgment briefing in this matter. See Docket Entry No. 134. On November 29, 2022, plaintiff notified the Court that he moved from Attica Correctional Facility

¹ The Court granted defendants' first adjournment request, because the undersigned was going to be on trial. See Docket Entry Nos. 128 and 129. The Court also, *sua sponte*, rescheduled this conference twice. See Docket Entry Nos. 127, 134.

to Auburn Correctional Facility. See Docket Entry No. 136. Upon contacting Auburn Correctional Facility to ensure plaintiff would be available for the conference, the facility phone coordinator informed the undersigned that plaintiff is in a special housing unit for disciplinary reasons, and that phone calls in that housing unit take place at 1:00 P.M. pursuant to the New York State HALT Bill. Upon cursory review of that law, it appears plaintiff is in solitary confinement.

The facility indicated they could produce plaintiff for the status conference at 1:00 P.M. on December 13, 2022. In the alternative, the facility also indicated they could produce plaintiff for a status conference on December 14 and December 19 at 1:00 P.M. If none of those alternatives are suitable for the Court, the undersigned is happy to go back to the facility, request additional alternative dates, and provide them to the Court, at the Court's direction. For the Court's information, defendants are making a simultaneous adjournment request in another case the City is defending against plaintiff, for a status conference scheduled on December 20, 2022 in front of the Honorable Judge Figueredo. The docket number for that matter is 20-CV-10563 (GBD) (VF).

Therefore, defendants write to respectfully request to adjourn the conference scheduled for December 13, 2022 at 2:00 PM to an alternative date and time proposed by the facility.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Caroline McGuire

Assistant Corporation Counsel
Special Federal Litigation

cc: Gabino Genao (By First Class Mail)
Plaintiff Pro Se
DIN 22B1480
Auburn Correctional Facility
135 State Street
Auburn, NY 13024

Application **GRANTED**. The status conference scheduled for December 13, 2022 is hereby adjourned *sine die*.

Defendants shall submit a letter by **January 6, 2023**, proposing three dates falling on Tuesdays, Wednesdays, and Thursdays in January and February 2023 during which all parties are available to have a telephonic status conference. Defendants are directed to serve a copy of this Order on the *pro se* Plaintiff.

SO ORDERED.



Ona T. Wang
U.S.M.J.

12/12/2022